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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 23

Serial Number: 08/383,550  
Filing Date: February 3, 1995  
Appellant(s): Hines et al.

Larry L. Huston  
For Appellant

EXAMINER'S ANSWER

**MAILED**

**MAY 07 1997**

**GROUP 330**

This is in response to appellant's brief on appeal  
filed 1/6/97.

(1) *Status of claims.*

The statement of the status of claims contained in the brief  
is correct.

(2) *Status of Amendments After Final.*

The appellant's statement of the status of amendments after  
final rejection contained in the brief is correct.

(3) *Summary of invention.*

The summary of invention contained in the brief is correct.

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(4) *Issues.*

The appellant's statement of the issues in the brief is correct.

(5) *Grouping of claims.*

The appellant's statement of the grouping of claims contained in the brief is correct.

(6) *Claims appealed.*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(7) *Prior Art of record.*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

US 4,758,240	GLASSMAN	7-1988
US 5,197,959	BUELL	3-1993
WO 93/12747	SNELLER	7-1993

(8) *New prior art.*

No new prior art has been applied in this examiner's answer.

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(9) *Grounds of rejection.*

The following ground(s) of rejection are applicable to the appealed claims.

Claims 1, 4-9, 12-17 and 19 are rejected under 35 USC 103. This rejection is set forth in the prior Office action paper number 12.

In regards to claims 1, 4-9, 16-17, and 19 the Buell device includes all the claimed structure except for the core having a line or lines of weakness. However, see figure 6 (23b and 23c), col. 6, lines 23-24, col. 8, lines 5-32, col. 13, lines 8-28, col. 16, lines 44-53, col. 17, lines 15-19, col. 18, lines 20-30 and 51-61, col. 26, lines 59-66. Sneller (paragraph bridging pages 18 and 19) and Glassman (see e.g., abstract and col. 5, lines 6-11) teaches channels or interchangeable spot depression, i.e., discrete sites to create a weakened area that permit lateral or accordion like compression of the pad when worn, see col. 4, lines 54-59. To employ line so weakness, i.e.- discrete site, as taught by Sneller and Glassman on the Buell device would be obvious to one of ordinary skill in the art in view of the recognition that such a feature would enhance the mimicking of the configurations of the deformation element by the core, i.e.- controlled bunching, and the desirability of such on the Buell device. In regard to the claim limitation of the discrete sites being bilaterally staggered about the line of weakness, to employ

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discrete sites bilaterally staggered as taught by Glassman would be obvious to one of ordinary skill in the art in view of the recognition that such would further increase the compressibility of the napkin, as disclosed on column 5, lines 38-42 and figure 3.

In regards to claim 9, Applicant claims V-shaped lines of weakness. However, on page 13, lines 13-17, Applicant does not disclose the criticality thereof. Therefore, it would have been obvious matter of design choice to modify the Buell device by having V-shaped lines of weakness since it has not been disclosed that having such lines of weakness solves any stated problem or is for any particular purpose and it appears that the core would perform equally well, see e.g., figures 14, 18, 19.

In regard to claim 19, see col. 8, lines 8-17 and 20-24, i.e., the inner perimeter region does not have to correspond to the protuberance 71, i.e., lines of weakness 23c. Applicant claims discrete sites joining the topsheet and core and having a lesser density than the discrete sites forming the lines of weakness. However, Glassman shows continuous lines and lines formed by discrete spots are interchangeable. Furthermore, Applicant does not disclose the criticality of lower density sites on page, lines 19-20. To make continuous region 47 of Buell discrete sites instead would be obvious of one of ordinary skill in the art in view of the interchangeable as taught by

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Glassman. Furthermore, it would have been obvious matter of design choice to modify the Buell device by having lower density sites since it has not been disclosed that having such density solves any stated problem or is for any particular purpose and it appears that the core would perform equally well.

(10) *New ground of rejection.*

This Examiner's Answer does not contain any new ground of rejection.

(11) *Response to argument.*

1. Applicant's arguments filed 2/18/97 have been fully considered but they are not deemed to be persuasive.

With respect to Applicant's remarks on selectively picking the proper figures of Buell was found non-persuasive, since when considering the obviousness of claims, one must consider the closest example of embodiment of the prior art with respect to the claims and not the farthest. In response to Applicant's remarks with Glassman providing infinite number of lines of weakness is not commensurate with the scope of the claims, i.e., Applicant claims only one discontinuous line of weakness.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

dj cho  
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